

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re: Stephen S. Gray, Plan Administrator of Dehon, Inc. v. Chapter 11
Florida State University

Adversary Proceeding 04-04036
Judge Henry J. Boroff

CLERK'S CERTIFICATION FOR TRANSMITTAL
OF RECORD ON APPEAL

05-40132 JLT

I, JAMES M. LYNCH, Clerk of the United States Bankruptcy Court for the District of Massachusetts, do hereby certify that the annexed documents are copies of the original papers as described in the accompanying Designation of Record and constitute the Record on Appeal in the case entitled and numbered 04-4036 Stephen S. Gray v. The Florida State University.

IN TESTIMONY WHEREOF, I HEREUNTO SET
MY HAND AND AFFIX THE SEAL OF THIS
COURT, AT WORCESTER, IN THE DISTRICT OF
MASSACHUSETTS, THIS 8th DAY OF AUGUST.

Date: 8/8/05

James M. Lynch
Clerk, U.S. Bankruptcy Court



By the Court,

Sheila Smith

Deputy Clerk
(508) 770-8910

Receipt of the documents in the above-entitled case as described in the Designation of Record is hereby acknowledged this 8 day of August, 2005.

This case has been assigned No. 05-40132 JLT

Kathleen H. Smith
DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

FILED
IN CLERK'S OFFICE

2005 JUL -6 AM 10:03

U.S. BANKRUPTCY COURT
WORCESTER, MA

In re:

DEHON, INC.,

Debtor.

Case No. 02-41045 (HJB)

Chapter 11

(Substantively Consolidated)

STEPHEN S. GRAY,
AS PLAN ADMINISTRATOR
OF DEHON, INC.,

Plaintiff,

v.

THE FLORIDA STATE UNIVERSITY,

Defendant.

05-40132-JLT

Adversary Proceeding No. 04-4036

NOTICE OF APPEAL

The Florida State University, Defendant herein, appeals under 28 U.S.C. § 158(a) from the Order of the bankruptcy judge denying Defendant's Motion to Dismiss, entered in this adversary proceeding on the 27th day of June, 2005.

The names of all parties to the order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

1. The Florida State University

Robert B. Jurand
Associate General Counsel
Suite 424, Westcott Building
The Florida State University
Tallahassee, Florida 32306-1400
(850) 644-4440

2. Stephen S. Gray
Plan Administrator for Dehon, Inc.

Neil V. McKittrick, Esq.
Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110-3333
(617) 482-1776

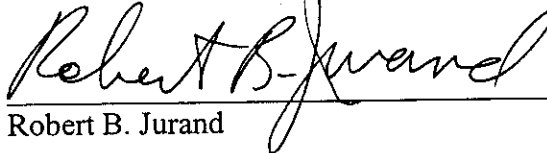
Dated this the 5th day of July, 2005.



ROBERT B. JURAND Fla. Bar No. 0712736
Associate General Counsel
Attorney for Appellant
The Florida State University
Suite 424, Westcott Building
Tallahassee, Florida 32306-1400
(850) 644-4440, fax 644-8973

Certificate of Service

I hereby certify that a true and correct copy of this document was sent to Neil V. McKittrick, Counsel for Plan Administrator, Goulston & Storrs, P.C., 400 Atlantic Avenue, Boston, MA 02110-3333 by United States mail postage prepaid and by facsimile transmission to (617) 574-4112, this 5th day of July, 2005.


Robert B. Jurand

FILED
IN CLERK'S OFFICE
2005 JUL - 6 PM 10:08
U.S. DISTRICT COURT
WORCESTER, MA

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

FILED
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2005 JUL -5 AM 10:07

U.S. BANKRUPTCY COURT
WESTERN DIVISION

In re:

DEHON, INC.,

Debtor.

Case No. 02-41045 (HJB)

Chapter 11

(Substantively Consolidated)

STEPHEN S. GRAY,
AS PLAN ADMINISTRATOR
OF DEHON, INC.,

Plaintiff,

v.

THE FLORIDA STATE UNIVERSITY,

Defendant.

05-40132

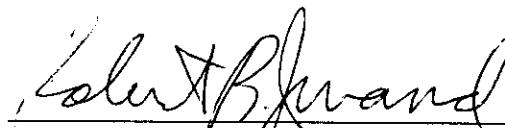
JUL

Adversary Proceeding No. 04-4036

ELECTION TO PROCEED TO DISTRICT COURT

The Florida State University, Defendant herein, pursuant to 28 U.S.C. § 158(c)(1), files this its separate written statement of election to have the appeal heard by the district court.

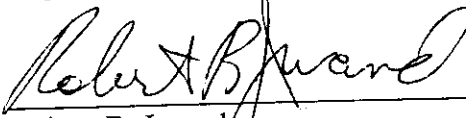
Dated this the 5th day of July, 2005.



ROBERT B. JURAND Fla. Bar No. 0712736
Associate General Counsel
Attorney for Appellant
The Florida State University
Suite 424, Westcott Building
Tallahassee, Florida 32306-1400
(850) 644-4440, fax 644-8973

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Robert B. Jurand

FILED
U.S. DISTRICT COURT
2005 JUL - 6 AM 10:07
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re: Stephen S. Gray, Plan Administrator of Dehon, Inc. v. Chapter 11
Florida State University

Adversary Proceeding 04-04036
Judge Henry J. Boroff

NOTICE OF FILING OF APPEAL TO DISTRICT COURT

05-40132 JLT

A Notice of Appeal and an Election to have the appeal heard in the United States District Court were filed on **JULY 6, 2005** in the above case/proceeding.

Please refer to 28 U.S.C. § 158(c)(1), Federal Rule of Bankruptcy Procedure 8001 et seq., and Local Rule 203 of the U.S. District Court. Also, pursuant to Federal Rule of Bankruptcy Procedure 8006 the Appellant must file with the Clerk of this Court, a Designation of the Record on Appeal and a Statement of the Issues to be presented on Appeal, within ten (10) days of the filing of the:

1. Notice of Appeal, or
2. Entry of an Order granting leave to appeal, or
3. Entry of an Order disposing of the last timely motion outstanding of a type specified in Rule 8002(b),

whichever is **later**.

A copy of the Designation and Statement shall be served by the Appellant on the Appellee.

The Appellee may file a Designation of Additional Papers to be included in the Record on Appeal within ten (10) days after service of the Appellant's Designation and Statement.

Upon the filing of Designation(s) of Record and Statement of Issues on Appeal, the Appellant (and Appellee if additional papers have been designated) shall, provide the Clerk with copies of all papers which have been designated for inclusion in the Record on Appeal within twenty-five (25) days of the issuance of this notice.

It is the duty of the parties to insure that the Record on Appeal is complete. The Clerk of the Bankruptcy Court will transmit the Record on Appeal as assembled by the parties.

Date: 7/6/05

James M. Lynch
Clerk, U.S. Bankruptcy Court

By the Court,

Sheila Smith
Deputy Clerk
(508) 770- 8910

United States Bankruptcy Court
District of Massachusetts

In re:

DEHON, INC.,

Debtor

Chapter 11
Case No. 02-41045-HJB

05-40132-JLT

STEPHEN S. GRAY,
AS PLAN ADMINISTRATOR OF
DEHON, INC.,

Plaintiff

Adversary Proceeding
No. 04-04036-HJB

v.

FLORIDA STATE UNIVERSITY,

Defendant

ORDER

For the reasons set forth in this Court's Memorandum of Decision of even date,
the Defendant's motion to dismiss the complaint is DENIED.

DATED: June 27, 2005

By the Court,



Henry J. Boroff
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re:

DEHON, INC.,

Debtor.

Case No. 02-41045 (HJB)
Chapter 11
(Substantively Consolidated)

STEPHEN S. GRAY,
AS PLAN ADMINISTRATOR
OF DEHON, INC.,

Plaintiff / Appellee,

v.

THE FLORIDA STATE UNIVERSITY,

Defendant / Appellant

05-4013

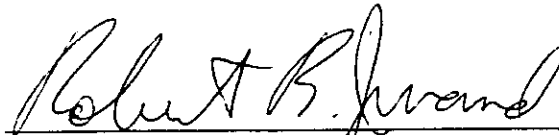
Adversary Proceeding No. 04-04036

STATEMENT OF THE ISSUES TO BE PRESENTED ON APPEAL

The Florida State University, Defendant / Appellant herein, pursuant to Federal Rule of Bankruptcy Procedure 8006, provides the following statement of the issue(s) to be presented on appeal:

Whether the Bankruptcy Court erred in denying Defendant / Appellant's Motion to Dismiss Adversary Proceeding, which Motion is based upon Defendant / Appellant's assertion that the Bankruptcy Court lacks *in personam* jurisdiction over an agency or instrumentality of the State of Florida by virtue of its immunity from suit in federal court without its consent under the Eleventh Amendment to the United States Constitution and that, to the extent that 11 U.S.C. §106 purports to abrogate the Eleventh Amendment immunity of a non-consenting state agency or instrumentality, such statutory provision is unconstitutional.

Dated this the 15th day of July, 2005.



ROBERT B. JURAND Fla. Bar No. 0712736
Associate General Counsel
Attorney for Defendant / Appellant
The Florida State University
Suite 424, Westcott Building
Tallahassee, Florida 32306-1400
(850) 644-4440, fax 644-8973

Certificate of Service

I hereby certify that a true and correct copy of this document was sent to Neil V. McKittrick, Counsel for Plan Administrator, Goulston & Storrs, P.C., 400 Atlantic Avenue, Boston, MA 02110-3333 by first class United States mail postage prepaid this 15th day of July, 2005.


Robert B. Jurand

2005 JUL 18 PM 3:56
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TALLAHASSEE, FLORIDA

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re:

DEHON, INC.,

Debtor.

Case No. 02-41045 (HJB)

Chapter 11

(Substantively Consolidated)

STEPHEN S. GRAY,
AS PLAN ADMINISTRATOR
OF DEHON, INC.,

Plaintiff / Appellee,

v.

THE FLORIDA STATE UNIVERSITY,

Defendant / Appellant

Adversary Proceeding No. 04-04036

05-40132-JLT

DESIGNATION OF THE RECORD ON APPEAL

The Florida State University, Defendant / Appellant herein, pursuant to Federal Rule of Bankruptcy Procedure 8006, designates the following items to be included in the Record on Appeal:

<u>Item No.</u>	<u>Description</u>	<u>Date</u>
1.	Complaint to Avoid and Recover Transfer of Property Under 11 U.S.C. §§ 547 and 550 and to Disallow Claim Under 11 U.S.C. § 502(d)	January 22, 2004
2.	Motion to Dismiss Case as to Defendant The Florida State University	June 18, 2004
3.	The Plan Administrator's Opposition to Defendant Florida State University's Motion to Dismiss Complaint	October 18, 2004

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4.	Notice of Supplemental Authority	October 22, 2004
5.	Order on Motion to Dismiss Adversary Proceeding	October 26, 2004
6.	Reply Memorandum to the Plan Administrator's Opposition to The Florida State University's Motion to Dismiss	November 30, 2004
7.	The Plan Administrator's Surreply in Opposition to Defendant Florida Sate University's Motion to Dismiss Complaint	January 14, 2005
8.	Memorandum of Decision	June 27, 2005
9.	Order	June 27, 2005
10.	Notice of Appeal	July 5, 2005
11.	Election to Proceed to District Court	July 5, 2005
12.	Notice of Filing of Appeal to District Court	July 6, 2005
13.	*Motion to Dismiss Case as to Defendant the University of Texas at Austin	May 12, 2004
14.	*The Plan Administrator's Opposition to Defendant University of Texas at Austin's Motion to Dismiss Complaint	October 18, 2004
15.	*University of Texas at Austin's Response to the Plan Administrator's Opposition to Defendant University of Texas at Austin's Motion to Dismiss Complaint	October 22, 2004
16.	*Order on Motion to Dismiss Adversary Proceeding	October 26, 2004
17.	*University of Texas at Austin's Supplemental Response to the Plan Administrator's Opposition to Defendant University of Texas at Austin's Motion to Dismiss Complaint	November 30, 2004
18.	*The Plan Administrator's Surreply in Opposition to Defendant University of Texas at Austin's Motion to Dismiss Complaint	January 14, 2005

19.	*Order	June 27, 2005
20.	*Notice of Appeal	July 7, 2005
21.	*Notice of Election to Proceed to United States District Court	July 7, 2005
22.	*Notice of Filing of Appeal to District Court	July 7, 2005
23.	**Motion to Dismiss Complaint and Memorandum in Support of Motion to Dismiss Complaint	June 4, 2004
24.	**The Plan Administrator's Opposition to Defendant University of Alaska's Motion to Dismiss Complaint	September 21, 2004
25.	**Order on Motion to Dismiss Adversary Proceeding	October 26, 2004
26.	**Reply Memorandum of University of Alaska Fairbanks	November 30, 2004
27.	**The Plan Administrator's Surreply to Defendant University of Alaska's Motion to Dismiss Complaint	January 14, 2005
28.	**Order	June 27, 2005
29.	**Notice of Appeal	July 6, 2005
30.	**Notice of Election to Proceed to United States District Court	July 6, 2005
31.	**Notice of Filing of Appeal to District Court	July 7, 2005

*Denotes companion / related adversary proceeding: *Stephen S. Gray, as Plan Administrator of Dehon, Inc. v. University of Texas at Austin*, Adversary Proceeding No. 04-04161

** Denotes companion / related adversary proceeding: *Stephen S. Gray, as Plan Administrator of Dehon, Inc. v. University of Alaska*, Adversary Proceeding No. 04-04040

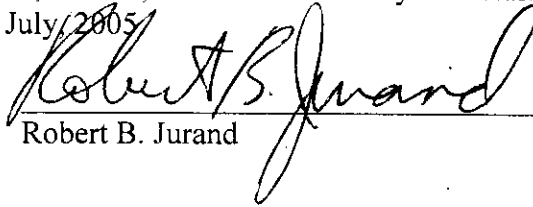
Dated this the 15th day of July, 2005.



ROBERT B. JURAND Fla. Bar No. 0712736
Associate General Counsel
Attorney for Defendant / Appellant
The Florida State University
Suite 424, Westcott Building
Tallahassee, Florida 32306-1400
(850) 644-4440, fax 644-8973

Certificate of Service

I hereby certify that a true and correct copy of this document, together with copies of the items designated herein, was sent to Neil V. McKittrick, Counsel for Plan Administrator, Goulston & Storrs, P.C., 400 Atlantic Avenue, Boston, MA 02110-3333 by first class United States mail postage prepaid this 15th day of July, 2005.


Robert B. Jurand

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re:

DEHON, INC.,

Debtor.

Case No. 02-41045 (HJB)
Chapter 11
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STEPHEN S. GRAY,
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Plaintiff / Appellee,

v.

THE FLORIDA STATE UNIVERSITY,

Defendant / Appellant

Adversary Proceeding No. 04-04036

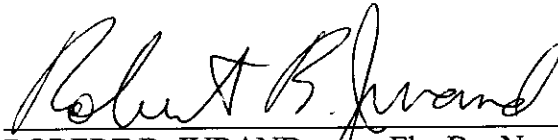
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U.S. BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION
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STATEMENT OF THE ISSUES TO BE PRESENTED ON APPEAL

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Dated this the 15th day of July, 2005.



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